

**RESOLUTION REQUESTING TAX CAP FIX
NEW YORK STATE TAX & FINANCE**

A regular meeting of Ulster County Industrial Development Agency (the “Agency”) was convened in public session at the offices of the Agency located at 244 Fair Street in the City of Kingston, Ulster County, New York on November 10, 2015 at 8:00 o’clock a.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Michael Horodyski	Chair
John Morrow	Vice Chair
Robert Kinnin	Secretary
Floyd Lattin	Treasurer
John Livermore	Assistant Secretary
James Malcolm	Assistant Treasurer
Mary Sheeley	Member

ABSENT:

CORPORATION STAFF PRESENT INCLUDED THE FOLLOWING:

Suzanne Holt	Director, Office of Economic Development
Linda Clark	Office of Economic Development
Christopher Fury	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by _____, seconded by _____, to wit:

Resolution No. ____

RESOLUTION REQUESTING THAT THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE TAKE CERTAIN ACTIONS TO EFFECT A TECHNICAL FIX TO THE 2% TAX CAP APPLICABLE TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS.

WHEREAS, Ulster County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general

prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, (A) Section 874(1) of the Act provides that the Agency shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities, and (B) Section 412-a of the Real Property Tax Law (the “RPTL”) provides that real property owned by or under the jurisdiction, supervision or control of the Agency shall be entitled to such exemption as may be provided in the Act; and

WHEREAS, Section 858(15) of the Act authorizes the Agency to enter into agreements requiring payments in lieu of taxes (each, a “Payment In Lieu of Tax Agreement”); and

WHEREAS, in 2011, Chapter 97 of the 2011 Laws of New York (the “2011 Tax Cap Statute”) added a new Section 3-c to the General Municipal Law (the “Local Government Tax Cap Law”), which Local Government Tax Cap Law generally provides in pertinent part as follows:

(A) the amount of real property taxes that can be levied by or on behalf of any county, city, town, fire district in the State (each, a “Local Government”) cannot exceed the “tax levy limit” imposed by the Local Government Tax Cap Law (generally, 102%) (the “Local Government Tax Cap”);

(B) the term “tax levy limit” means the amount of “taxes” levied by or on behalf of a Local Government, excluding certain items;

(C) the “tax levy limit” is calculated as follows:

- (1) ascertain the total amount of taxes levied for the prior fiscal year;
- (2) multiply the result by the “tax base growth factor” calculated pursuant to Section 3-c(3)(b) of the General Municipal Law;
- (3) add any payments in lieu of taxes receivable in the prior fiscal year;
- (4) subtract certain taxes levied to support extraordinary court orders or judgments;
- (5) multiply the result by the “allowable levy growth factor”;
- (6) subtract any payments in lieu of taxes receivable in the coming fiscal year; and
- (7) add any “available carryforward” (the amount by which the tax levy for the previous fiscal year was below the tax levy limit for such prior fiscal year, but not more than 1.5% of the tax levy limit for such prior fiscal year);

(D) the “tax base growth factor” is calculated as follows:

(1) pursuant to Section 3-c(3)(b)(i) of the General Municipal Law, the State Commissioner of Taxation and Finance (the “Tax Commissioner”) calculates a “quantity change factor” for each Local Government for the coming fiscal year based upon the physical or quantity change reported to the Tax Commissioner by the local assessor pursuant to RPTL Section 575 (information traditionally collected by the Tax Commissioner for purposes of calculating state equalization rates), which “quantity change factor” shall show the percentage by which the full value of the taxable real property in the Local Government has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.;

(2) if the “quantity change factor” for a Local Government is negative, the Tax Commissioner shall not determine a “tax base growth factor” for the Local Government;

(3) if the “quantity change factor” for a Local Government is positive, the Tax Commissioner shall determine a “tax base growth factor” for the Local Government which is equal to one plus the “quantity change factor”; and

(4) the Tax Commissioner shall notify the State Comptroller and each Local Government of the applicable “tax base growth factor”, if any, as soon as such factor is calculated; and

(E) under certain circumstances, a Local Government may adopt a tax levy that is greater than the “tax levy limit” for the coming fiscal year; and

WHEREAS, the 2011 Tax Cap Statute also added a new Section 2023-a to the Education Law (the “School District Tax Cap Law”), which School District Tax Cap Law imposed upon School Districts a tax cap (the “School District Tax Cap”), which School District Tax Cap is calculated in a manner similar to the Local Government Tax Cap, except that, in step (C)(4) of the prior recital, the tax levy necessary to support “capital local expenditures” is also subtracted; and

WHEREAS, because the Local Government Tax Cap Law and the School District Tax Cap Law (collectively, the “Tax Cap Laws”) did not include the value of new assessment exempted by the Agency under a Payment In Lieu of Tax Agreement in the “tax base growth factor” (or in the “quantity change factor” used to calculate the “tax base growth factor”) used to calculate increases in the Local Government Tax Cap and the School District Tax Cap (collectively, the “Tax Caps”), such Tax Caps ignored increases to the tax base of a local community if that increase occurred under an Agency Payment In Lieu of Tax Agreement, thus denying such local community the ability to expand its resources in proportion to service demand increases; and

WHEREAS, Section 2 of Subpart C of Chapter 20 of the 2015 Laws of New York (the “2015 Local Government Tax Cap Amendment Statute”) amended Section 3-c(3)(b)(i) of the General Municipal Law to provide that “The commissioner of taxation and finance shall, as appropriate, promulgate rules and regulations regarding the calculation of the quantity change factor which may adjust the calculation based on the development on tax exempt land.”; and

WHEREAS, Section 3 of Subpart C of Chapter 20 of the 2015 Laws of New York (the “2015 School District Tax Cap Amendment Statute”) amended Section 2023-a(2-a)(b) of the Education Law to

provide that “The commissioner of taxation and finance shall, as appropriate, promulgate rules and regulations regarding the calculation of the quantity change factor which may adjust the calculation based on the development on tax exempt land.”; and

WHEREAS, the Agency recognizes that the factors described in the prior recitals has impacted, or had potential impacts on municipalities and school districts in Ulster County; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. In light of the impacts and potential impacts on municipalities and school districts in Ulster County, the Agency urges that the Tax Commissioner as soon as possible develop and promulgate the rules and regulations regarding the calculation of the quantity change factor to adjust such calculation based on the development on tax exempt land authorized by the 2015 Local Government Tax Cap Amendment Statute and the 2015 School District Tax Cap Amendment Statute.

Section 2. The Agency hereby authorizes the Chairman of the Agency to cause a copy of this resolution to be mailed to (A) the Tax Commissioner, and (B) such other State or local governmental officials as the Chairman believes are appropriate.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of this resolution.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Michael Horodyski	VOTING	_____
Robert Kinnin	VOTING	_____
Floyd Lattin	VOTING	_____
John Livermore	VOTING	_____
James Malcolm	VOTING	_____
John Morrow	VOTING	_____
Mary Sheeley	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

